

**RAMONA CASTILLO**  
Claimant

**WICHITA CHILDREN'S HOME**  
Respondent

**TRAVELERS INSURANCE COMPANY**  
Insurance Carrier

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## ORDER

## ISSUES

The only issue now before the Appeals Board is whether claimant provided respondent with timely notice of the accidental injury.

After reviewing the record compiled to date, the Appeals Board finds the preliminary hearing Order should be affirmed.

The Appeals Board agrees with and adopts Judge Barnes's analysis that Ms. Castillo failed to provide the Wichita Children's Home with timely notice of the November 1, 1997 accident and alleged left shoulder injury. Ms. Castillo waited until March 1998 to notify the Children's Home that she had injured her left shoulder, or

sustained any other type of injury, in the November 1997 fall. Before that time, she related her shoulder problems to raising her arm while reaching to open a can at home.

The Workers Compensation Act requires an individual to report an accidental injury within 10 days of its occurrence. But that reporting period may be extended to 75 days for just cause.<sup>1</sup> Because Ms. Castillo reported the accidental injury more than 75 days after the accident and because the Children's Home did not have actual knowledge of the accidental injury rendering notice unnecessary, the notice provided was not timely. Therefore, Ms. Castillo's claim for benefits must be denied.

Ms. Castillo argues that she gave notice to Mr. McDonald within 10 days of the accident. Unfortunately, it does not appear that Mr. McDonald was one of Ms. Castillo's supervisors or in any other type of position that would make notice to him notice to the Children's Home.

**WHEREFORE**, the Appeals Board affirms the preliminary hearing Order dated October 6, 1998, entered by Administrative Law Judge Nelsonna Potts Barnes.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of November 1998.

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BOARD MEMBER

c: Brian D. Pistotnik, Wichita, KS  
William L. Townsley III, Wichita, KS  
Nelsonna Potts Barnes, Administrative Law Judge  
Philip S. Harness, Director

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<sup>1</sup>K.S.A. 44-520.